

JAN 28 2005

MICHAEL W. DOBBINS **CONFIDENTIAL - FILED UNDER SEAL**
CLERK, U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

aaiPHARMA INC.,

Plaintiff,

v.

KREMERS URBAN DEVELOPMENT CO.,
SCHWARZ PHARMA, INC.,
SCHWARZ PHARMA USA HOLDINGS INC.,
SCHWARZ PHARMA MANUFACTURING INC.
and
SCHWARZ PHARMA AG

Defendants.

05C 0537
Civ. Action No.

JUDGE AMY ST. EVE

MAGISTRATE JUDGE MASON

MOTION TO QUASH RULE 45 SUBPOENA

Plaintiff aaiPharma, Inc. ("aaiPharma") and their counsel, the law firm of McDonnell Boehnen Hulbert & Berghoff ("MBHB") move that the Court quash the Rule 45 subpoena served on MBHB, pursuant to Fed. R. Civ. P. 45(c)(3)(A). The subpoena demands disclosure of documents and communications protected from discovery by attorney client privilege and the work product immunity doctrine; is unduly burdensome as being substantially duplicative of previously produced or available evidence; demands documents and testimony not reasonably calculated to lead to the discovery of admissible evidence; and improperly and without justification attempts to involve aaiPharma's counsel as fact witnesses. Accordingly, this Court should quash Defendants' Rule 45 subpoena.

The parties have stipulated that this motion be timely filed if filed on January 28, 2005.

Respectfully submitted,

January 28, 2005

By:

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